

DNIRT FILE NUMBER 1901-11574

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF PANTERRA MORTGAGE & FINANCIAL CORPORATION LTD.

DEFENDANTS 1075397 ALBERTA LTD., RIGSAT COMMUNICATIONS INC., PETROCRAFT PRODUCTS LTD., TERENCE PHILLIPS, and LISA PHILLIPS

DOCUMENT **AFFIDAVIT**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT G. Brian Davison, Q.C.
DLA PIPER (CANADA) LLP
1000, 250- 2nd Street SW
Calgary, Alberta T2P 0C1
Phone: 403.294.3590
Fax: 403.296.4474
File No. 104076-00001

AFFIDAVIT OF DANIEL HOFER

Sworn on October 23, 2020

I, Daniel Hofer, of Calgary, Alberta, SWEAR AND SAY THAT:

1. I am a commercial underwriter employed by First Avenue Financial in Calgary, Alberta. As such, I have personal knowledge of the matters herein deposed to except where stated to be based upon information and belief, in which case I verily believe the same to be true.

Engagement

2. On or about June 25, 2019 I was engaged by Terry Phillips with the hopes to secure mortgage financing and debt restructuring for the corporate connection I refer to as Rigsat.
3. The goal of financing was to restructure the debt on the property located at 2320 2 Avenue SE Calgary Alberta to take out the current lender in place Panterra Mortgage & Financial Corporation Ltd. ("**Panterra**").

4. I was able to present Terry Phillips with an offer from BMO Financial on July 15, 2019 that would have provided \$3,000,000 net to the borrower to pay out the portion of the mortgage.
5. It was on or about July 30, 2019 that I was made aware of the Writs of Enforcement against Terry in the amount of \$1,000,000. So I had to pivot and look for some creative financing.

The Plan

6. The Plan was to secure Rigsat debt restructuring on his related companies in the amounts listed below totaling \$3,990,000:
 - a. \$250,000 Line of Credit against PetroCraft Products Ltd.;
 - b. \$300,000 Line of Credit against Quintel Communications Ltd.;
 - c. \$650,000 Cashflow Loan and Line of Credit against RigSat Communications Inc.;
 - d. \$2,790,000 Mortgage Loan against 1075397 Alberta Ltd.

This would have been sufficient to pay out the Panterra Mortgage provided that Rigsat could handle and deal with the writs.

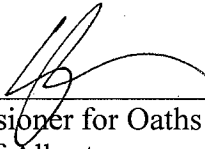
7. I then approached Calvert Home Mortgage Corporation seeking lending against 64 Gladys Ridge, and 11 Gladys Ridge including other property that Rigsat owned to deal with the Writs of Enforcement. Securing financing would allow the previous point 6 to proceed.

Currently

8. September 9, 2020 RigSat received an Expression of Interest in the amount of \$2,790,000 for refinancing against the 2320 2nd Ave Building, a copy of which is attached hereto and marked as Exhibit "A".
9. October 17, 2020 confirmation that the writs for Art and Sue Quinney had been dealt with by way of letter, which allowed for the removal of the writs from Terry's credit bureau report.
10. October 19, 2020 confirmation from ATB that since the writs were removed that underwriting could begin for this file. Timeline has been provided as to when estimated approval, documents and funding is to occur. Attached hereto and marked as Exhibit "B" is a copy of an email exchange with ATB. ATB is looking to provide financing in the amount of \$2,790,000 as per the September 9, 2020 offer. Although I do not have a formal approval from ATB Financial yet – ATB had previously approved financing March 12, 2019 in the amount of \$2,675,000 based on the current appraisal at the time.

- 11. October 22, 2020 confirmation from IMG that they are ready to proceed with funds and plan to close the deal outlined in the attached document and letter of disclosure in the amount of \$1,010,000 Net to borrower, attached hereto and marked as Exhibit "C".
- 12. I am of the opinion that this is the best course of action that Terry has to refinance the property.

SWORN BEFORE ME at Calgary, Alberta,
this 23 day of October, 2020.



A Commissioner for Oaths in and for the
Province of Alberta

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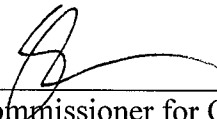
Daniel Hofer

G. BRIAN DAVISON Q.C.
BARRISTER & SOLICITOR

THIS IS EXHIBIT "A"
referred to in the Affidavit of

Daniel Hofer

sworn before me this 23 day of
October, A.D. 2020.



A Commissioner for Oaths/Notary Public
in and for the Province of Alberta

G. BRIAN DAVISON Q.C.
BARRISTER & SOLICITOR

Expression of Interest

Proposal for Financial Services

1075397 Alberta Ltd

**c/o TMG / The Mortgage Group
Calgary, AB**

September 3, 2020

Attn: Dan Hofer, Commercial Underwriter

ATB Financial (the "Lender") is pleased to submit the following Proposal for Financial Services to 1075397 Alberta Ltd or Nominee (the "Borrower"). **Please be advised the following is not to be considered a commitment on our behalf, but rather an expression of interest.** Unless otherwise stated, all dollar amounts are in Canadian funds.

This proposal is valid until October 31, 2020.

ATB financial is to be notified, in writing, of the decision to accept this proposal by the valid until date (as above). Should an executed copy of this document not be returned by that date, the proposal as outlined, will be considered void.

We welcome the opportunity to discuss any section of the proposal with you. If there are any concerns or questions, please contact **Serge Martin** at **780.831.5132**.

Confidentiality Notice:

The material and information contained herein is confidential and proprietary to ATB Financial, and is submitted solely for the use of 1075397 Alberta Ltd or Nominee in its evaluation process. Dissemination of any such information in any manner without the expressed written approval of ATB Financial is prohibited.

Recommendations

Based on our understanding of your business requirements, we would recommend the following Financial Solutions:

Credit Facility #1-

PURPOSE:	Refinance of the Cococo property located at 2320 2 nd Ave SE in Calgary, AB.
LOAN TYPE:	Term Loan – Variable or Fixed Options
AMOUNT:	\$2,790,000.00
AVAILABILITY:	To be advanced in a single draw at stages via the solicitor's trust account.
INTEREST RATE:	Variable Rate of Prime + 1.37%. ATB Financial's Prime Lending Rate is currently 2.95% Fixed Rate: 4.24% over a 5 year term. *These are indication rates only and subject to change.*
REPAYMENT:	Blended payments in the amount of \$18,100 to commence no more than 45 days after funding and for a term not to exceed 60 months and an amortization of 20 years.
FEES:	A non-refundable loan application fee will be payable on acceptance of this letter. A loan commitment fee of \$12,500 will be payable upon acceptance of a formal commitment; All legal, documentation, searches, appraisal, environmental audit or any other fees (as applicable) regarding completion of this transaction are for the account of the Borrower; Cost for the ATB appointed Solicitor for the preparation, registration and review of security documents are for the account of the Borrower.

COLLATERAL:

The following is proposed but not limited to:

- General Security Agreement in first position covering Present & After-Acquired Personal Property of the Borrower specific to the project lands;
- Land Mortgage in the amount of \$2,790,000 covering first fixed charge over the "Project Lands" in Calgary, AB. Complete civic address of 2320 - 2nd Ave SE & legal address of Lot 2 Block 5 Plan 7810519 is to be confirmed by ATB's legal counsel;
- Limited personal guarantee from Terry Phillips in the amount of \$900,000;
- Assignment of Leases & Rents registered via Caveat at Land Titles Office;
- Priority Agreement and Postponement via liens at PPR;
- Postponement & Subordination of Security Interest from Business Development of Canada;
- Life Insurance assigned to ATB to be offered;
- Assignment of Fire and Peril insurance over the property with FLP to ATB Financial;
- Transmittal Letters for Building Condition Report, Environmental Assessment Report & Appraisal in favor of ATB Financial. Environmental Assessment transmittal to be on a best-effort basis;
- ATB Environmental Questionnaire form;
- Written confirmation of the settlement or dismissal of all judgements/ builder's liens appearing on the corporate credit bureau of the borrower via clean Land Title Office search;
- Real Property Report with Compliance Certificate or alternatively Title Insurance;
- Any other security that ATB and/or its solicitors reasonably consider necessary in the circumstances.

COVENANT REQUIREMENTS: The following covenants are required:

- Financial covenants to be: Debt Service Coverage Ratio not be less than 1.25: 1.0;

FINANCIAL REPORTING: On an annual basis, within 120 days/ 4 months of the Borrower's fiscal year- end, following financial information will be required:

- Financial Statements of the borrower completed in a Notice to Reader basis;
- Income & Expense statement specific to the property taken as security;

ADDITIONAL REQUIRED INFORMATION:

PRE UNDERWRITING

- Copy of the year end financial statement for the Borrower dated September 30, 2018, & September 30, 2019;
- Copy of the most recent tax statement from the City of Calgary over the subject property and bank statement confirmation of monthly payments being applied (most recent 3 months);
- Most recent two years operating statements for the subject property;
- Copy of the fully executed lease agreement between the Borrower and Cococo Chocolatiers Inc dated 2015 and any amendments since the original was executed;
- Personal net worth statement for each guarantor on the attached ATB form;
- Transmittal Letter for the Colliers appraisal dated July 21, 2019;
- Canada Revenue Agency statement for the borrower showing all remittances, GST and income taxes are not in arrears;

PRE FUNDING

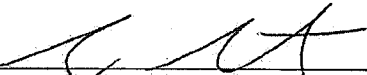
- New Building Condition report completed by a qualified firm covering a non-evasive structural review including building envelope, mechanical review including HVAC and roof inspection. Report to include a listing of recommended items requiring repair or replacement within one year with the estimated cost of each item. Report to include repair or replacement items within one to three years with estimated costs. Report to confirm a remaining life of a minimum of 30 years. (A holdback for 100% of the funds required to cover all repairs and maintenance that is to be completed within 1 year)

TERMS OF OFFERING:

- **This document is NOT A COMMITMENT of funds by ATB but rather a letter of interest for the proposed financing. Formal approval is required by ATB Financial.**
- It is further understood and agreed that payment of the proposed advances will be of a demand nature and ATB Financial may, if they deem it advisable, demand payment in full of the amounts owing under the said advances at any time.

- If proposed financing is approved, the Borrower's main operating bank accounts will be held at the ATB Financial Branch of your choice.
- ATB Financial and 1075397 Alberta Ltd or Nominee reserves the right to renegotiate the terms in this proposal should the requirements or circumstances change significantly.

Proposed on behalf of ATB Financial:



Serge Martin
Director Business Development
Grande Prairie, Alberta

Accepted on behalf of 1075397 Alberta Ltd or Nominee

Signature: _____

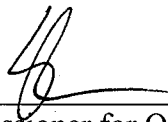
Name: _____

Position: _____

THIS IS EXHIBIT "B"
referred to in the Affidavit of

Daniel Hofer

sworn before me this 23 day of
October, A.D. 2020.



A Commissioner for Oaths/Notary Public
in and for the Province of Alberta

G. BRIAN DAVISON Q.C.
BARRISTER & SOLICITOR



Daniel Hofer <daniel@firstavefinancial.com>

1075397 Alberta Ltd - Update

5 messages

Tue, Oct 20, 2020 at 9:57 PM

Serge Martin <smartin3@atb.com>
To: Daniel Hofer <daniel@tmfavenue.com>

Hi Dan,
Here is a timeline for the transaction. If you have any questions please let me know.
Currently - Submitted to Underwriting should be picked up by October 23, 2020
Underwriting - Submitted to Credit October 28, 2020
Formal Approval - October 30th
Commitment - November 2, 2020

Thanks in advance.
SRM

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Regards,
Serge Martin, BComm
Director - Business Development
ATB Business
Mobile 780.831.5132

Grande Prairie & Peace Regions
atb.com



If you have received this email in error, please let me know by return email so I can make sure it doesn't happen again. Because emails can contain confidential and privileged material, I'd ask for your help by deleting it and any attachments. Thanks!

We like to keep people up to date with information about new products and services at ATB or changes that could affect you. You can check out more about ATB and CASL at <http://www.atb.com/important-information/privacy-security/Pages/ATB-and-CASL.aspx>

If you would like to unsubscribe from our updates, please use this URL - <http://www.atb.com/important-information/privacy-security/Pages/unsubscribe.aspx>

Wed, Oct 21, 2020 at 8:06 AM

Serge Martin <smartin3@atb.com>
To: Daniel Hofer <daniel@firstavefinancial.com>

[Quoted text hidden]

THIS IS EXHIBIT "C"
referred to in the Affidavit of

Daniel Hofer

sworn before me this 23 day of
October, A.D. 2020.



A Commissioner for Oaths/Notary Public
in and for the Province of Alberta

G. BRIAN DAVISON Q.C.
BARRISTER & SOLICITOR

1439 INITIAL DISCLOSURE STATEMENT AND WAIVER FOR FIXED CREDIT MORTGAGE FINANCING
AS REQUIRED UNDER PART 9 OF THE FAIR TRADING ACT(ALBERTA)(ACT)

Broker Marcus Keller
Investor/ Mortgage charged to: TBD
Borrower 1075397 AB Ltd / Terry Phillips
Security Interest(s) 220 - 19 Street SE Calgary, AB
2320 - 2 Avenue SE Calgary, AB
94 Gladys Ridge SW Calgary, AB

PART 1 - Initial Disclosure Statement - Section 77 and Regulation 8(1) of the Act	
1. Principal amount of Second Mortgage	\$1,330,112.68
2. Date of advance on or about	November 27 2020
Charges other than interest, payable by the borrower include:	
a. Mortgage Insurance Fee	
b. Mortgage Insurance Application Fee	
c. Title Insurance	\$195.00
d. Property Appraisal Fee	
e. Property Inspection Fee	
f. Real Property Report	
g. Estimated Legal Fees and Disbursements	\$3,000.00
h. Allocation Fee	\$140,000.00
i. Broker Fee, Bonus or Discount	\$24,000.00
j. Interest reserve	\$152,917.68
k. Shares Purchased	
l. Other Charges (1) \$395 Renewal Fee on the discretion of Investor. (2) \$195 NSF	
Total Charges and Fees	
Net Fees to be deducted from mortgage advance	\$167,195.00
3. Amount of loan proceeds to be paid to borrower or disbursed	\$1,010,000.00

4. (a) The annual mortgage interest rate is 12.99 calculated annually not in advance and is the correct rate to use when calculating monthly payments (clause 6) at any given time. Interest will accrue from the date the mortgage is advanced. This mortgage has no grace periods.
(b) The Total Cost of Credit (TCC) for this transaction is \$167,195.00. The Annual Percentage Rate (APR) for this transaction is 17.2094% (calculated semi-annually not in advance; accurate to 1/8%).
5. The term of the mortgage is 12 months

1439 INITIAL DISCLOSURE STATEMENT AND WAIVER FOR FIXED CREDIT MORTGAGE FINANCING AS REQUIRED UNDER PART 9 OF THE FAIR TRADING ACT(ALBERTA)(ACT)

6. The mortgage will be paid monthly on interest only payments, at the interest rate set out in clause 4(a) and will be payable in interest payments of \$12,743.14 (\$152,917.68 total over entire term). Assuming an advance date of November 27 2020 the first mortgage payment will be due December 1 2020.

7. Overdue interest shall be treated (as to the payment of interest thereon) as principal and shall bear compound interest at the rate and in the manner set out in clause 4(a) above.

8. The terms and conditions for prepayment of the mortgage prior to maturity are:

This mortgage is open to prepayment with payment of three months interest.

9. Description of additional Security Interest not already described above (includes vehicles, equipment, etc).

None

10. Nature, amount & timing of Optional Services.

11. Pursuant to section 69 of the Act, the Credit Grantor will charge the Borrower reasonable charges as follows:

(a) in respect of legal costs incurred in collecting or attempting to collect a payment under the credit agreement;

(b) in respect of costs, including legal costs, incurred in realizing a security interest or protecting the subject-matter of a

security interest after default, and;

(c) that reflect costs incurred by the Credit Grantor because a cheque or other payment instrument given by the Borrower to

the Credit Grantor was dishonoured.

12. This Initial Disclosure Statement is made by the Credit Grantor pursuant to the provisions of the Act and in the event of any

conflict between the terms of this statement and those of the loan documents and security, then subject to the provisions of

the Act, the provisions of the loan documents and security shall govern and prevail.

PART 2 Waiver

Pursuant to section 64(3) and Regulation 5(1) the Borrower hereby waives the time period for delivery of a disclosure statement

referred to in section 64(2) of the Act.

If the Borrower notifies the Credit Grantor or the Mortgage Broker, within two days after receiving this Initial Disclosure

Statement, that the Borrower intends to withdraw from or does not intend to enter into the credit agreement, then:

(a) any obligation of the Borrower to either the Credit Grantor or the Mortgage Broker, or both, in connection with the credit agreement (subject to those exceptions set out in section 64(2)(a) of the Act) will be extinguished; and

(b) any payment made by the Borrower to either the Credit Grantor or the Mortgage Broker, or both, in connection with

the credit agreement (subject to those exceptions set out in section 64(2)(b) of the Act) will be refunded.

The Borrower acknowledges receipt of this Initial Disclosure Statement

this _____ day of _____, 20____ and that such date is both the Effective Date for Part 1

above and the date from which the two day notice period

referred to in Part 2 above begins to run.

Borrower Signature

Date

Borrower Signature

Date

Investment Mortgage Group

